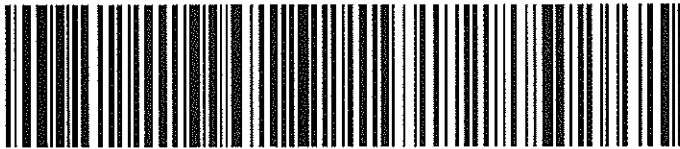


Office of the Secretary of State
Building 1 Suite 157-K
1900 Kanawha Blvd E.
Charleston, WV 25305



Mac Warner
Secretary of State
State of West Virginia
Phone: 304-558-6000
886-767-8683
Visit us online:
www.wvsos.com

USPS CERTIFIED MAIL™



9214 8901 1251 3410 0003 8226 40

LIBERTY HOME GUARD, LLC
1202 AVENUE U
#1061
BROOKLYN, NY 11229

Control Number: 310991

Defendant: LIBERTY HOME GUARD, LLC
1202 AVENUE U
#1061
BROOKLYN, NY 11229 US

County: Ohio

Civil Action: 23-C-105

Certified Number: 92148901125134100003822640

Service Date: 7/24/2023

I am enclosing:

1 summons and complaint

which was served on the Secretary at the State Capitol as your statutory attorney-in-fact. According to law, I have accepted service of process in your name and on your behalf.

*Please note that this office has no connection whatsoever with the enclosed documents other than to accept service of process in your name and on your behalf as your attorney-in-fact. Please address any questions about this document directly to the court or the plaintiff's attorney, shown in the enclosed paper, **not to the Secretary of State's office.***

Sincerely,

A handwritten signature in cursive script that reads "Mac Warner".

Mac Warner
Secretary of State

EXHIBIT
A

FILED | 7/14/2023 2:20 PM
 CC-35-2023-C-105
 Ohio County Circuit Clerk
 Brenda L. Miller

SUMMONS

IN THE CIRCUIT COURT OF OHIO COUNTY, WEST VIRGINIA

Diana Mey v. Liberty Home Guard, LLC

Service Type: Secretary of State - Certified - Including Copy Fee

NOTICE TO: Liberty Home Guard, LLC, 1202 Avenue U #1061, Brooklyb, NY 11229

THE COMPLAINT WHICH IS ATTACHED TO THIS SUMMONS IS IMPORTANT AND YOU MUST TAKE IMMEDIATE ACTION TO PROTECT YOUR RIGHTS. YOU OR YOUR ATTORNEY ARE REQUIRED TO FILE THE ORIGINAL OF YOUR WRITTEN ANSWER, EITHER ADMITTING OR DENYING EACH ALLEGATION IN THE COMPLAINT WITH THE CLERK OF THIS COURT. A COPY OF YOUR ANSWER MUST BE MAILED OR HAND DELIVERED BY YOU OR YOUR ATTORNEY TO THE OPPOSING PARTY'S ATTORNEY:

Diana Mey, 14 Applewood Dr, Wheeling, WV 26003

THE ANSWER MUST BE MAILED WITHIN 30 DAYS AFTER THIS SUMMONS AND COMPLAINT WERE DELIVERED TO YOU OR A JUDGMENT BY DEFAULT MAY BE ENTERED AGAINST YOU FOR THE MONEY OR OTHER THINGS DEMANDED IN THE COMPLAINT.

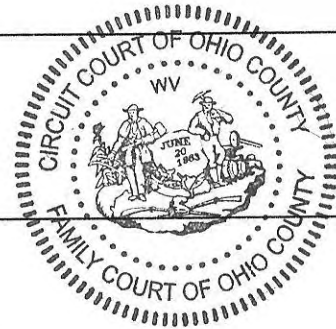
SERVICE:

7/14/2023 2:20:51 PM

Date

/s/ Brenda L. Miller

Clerk



RETURN ON SERVICE:

☐ Return receipt of certified mail received in this office on _____

☐ I certify that I personally delivered a copy of the Summons and Complaint to _____

☐ I certify that I personally delivered a copy of the Summons and Complaint to the individual's dwelling place or usual place of abode to _____, a member of the individual's family who is above the age of sixteen (16) years and by advising such person of the purpose of the summons and complaint.

☐ Not Found in Bailiwick

 Date

 Server's Signature

ACCEPTED FOR
 SERVICE OF PROCESS
 2023 JUL 24 P 4:12
 SECRETARY OF STATE
 STATE OF WEST VIRGINIA

FILED | 7/14/2023 2:20 PM
 CC-35-2023-C-105
 Ohio County Circuit Clerk
 Brenda L. Miller

IN THE CIRCUIT COURT OF OHIO

CIVIL CASE INFORMATION STATEMENT
 (Civil Cases Other than Domestic Relations)

I. CASE STYLE:

Case No. _____

Plaintiff(s)

Judge: _____

DIANA MEY

Plaintiff's Phone: 304-242-4327

vs.

Days to

Defendant(s)

Answer

Type of Service

LIBERTY HOME GUARD LLC

30 days Secretary of State

Name

Defendant's Phone: 833-544-8273

1202 Avenue U #1061

Street Address

Brooklyn, NY 11229

City, State, Zip Code

II. TYPE OF CASE:

☐ General Civil

☐ Adoption

☐ Mass Litigation [As defined in T.C.R. 26.04(a)]

☐ Administrative Agency Appeal

☐ Asbestos

☐ Civil Appeal from Magistrate Court

☐ FELA Asbestos

☐ Miscellaneous Civil Petition

☐ Other: _____

☐ Mental Hygiene

☐ Habeas Corpus/Other Extraordinary Writ

☐ Guardianship

☒ Other: Telephone Consumer Protection Act; WVCCPA

☐ Medical Malpractice

III. JURY DEMAND: ☒ Yes ☐ No CASE WILL BE READY FOR TRIAL BY (Month/Year): 11 / 2024

**IV. DO YOU OR ANY
 OF YOUR CLIENTS
 OR WITNESSES
 IN THIS CASE
 REQUIRE SPECIAL
 ACCOMMODATIONS?**

IF YES, PLEASE SPECIFY:

☐ Yes ☒ No

☐ Wheelchair accessible hearing room and other facilities

☐ Reader or other auxiliary aid for the visually impaired

☐ Interpreter or other auxiliary aid for the deaf and hard of hearing

☐ Spokesperson or other auxiliary aid for the speech impaired

☐ Foreign language interpreter-specify language: _____

☐ Other: _____

Attorney Name: _____

Representing:

Firm: _____

☐ Plaintiff

☐ Defendant

Address: _____

☐ Cross-Defendant

☐ Cross-Complainant

Telephone: _____

☐ 3rd-Party Plaintiff

☐ 3rd-Party Defendant

☒ Proceeding Without an Attorney

Original and 1 copies of complaint enclosed/attached.

Dated: 07 / 14 / 2023

Signature: _____

SCA-C-100: Civil Case Information Statement (Other than Domestic Relations)

Revision Date: 4/2020

Plaintiff: DIANA MEY, *et al* Case Number: _____
 vs.
 Defendant: LIBERTY HOME GUARD LLC, *et al*

**CIVIL CASE INFORMATION STATEMENT
 DEFENDANT(S) CONTINUATION PAGE**

Defendant's Name _____ Defendant's Phone: _____
 Street Address _____ Days to Answer: _____
 City, State, Zip Code _____ Type of Service: _____

Defendant's Name _____ Defendant's Phone: _____
 Street Address _____ Days to Answer: _____
 City, State, Zip Code _____ Type of Service: _____

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 City, State, Zip Code _____ Type of Service: _____

FILED | 7/14/2023 2:20 PM
 CC-35-2023-C-105
 Ohio County Circuit Clerk
 Brenda L. Miller

IN THE CIRCUIT COURT OF OHIO

CIVIL CASE INFORMATION STATEMENT
 (Civil Cases Other than Domestic Relations)

I. CASE STYLE:

Case No. _____

Plaintiff(s)

Judge: _____

DIANA MEY

Plaintiff's Phone: 304-242-4327

vs.

Days to

Defendant(s)

Answer

Type of Service

LIBERTY HOME GUARD LLC

30 days Secretary of State

Name

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1202 Avenue U #1061

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Brooklyn, NY 11229

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II. TYPE OF CASE:

☐ General Civil

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☐ Asbestos

☐ Civil Appeal from Magistrate Court

☐ FELA Asbestos

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☐ Other: _____

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☐ Guardianship

☒ Other: Telephone Consumer Protection Act; WVCCPA

☐ Medical Malpractice

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 OR WITNESSES
 IN THIS CASE
 REQUIRE SPECIAL
 ACCOMMODATIONS?**

IF YES, PLEASE SPECIFY:

☐ Yes ☒ No

☐ Wheelchair accessible hearing room and other facilities

☐ Reader or other auxiliary aid for the visually impaired

☐ Interpreter or other auxiliary aid for the deaf and hard of hearing

☐ Spokesperson or other auxiliary aid for the speech impaired

☐ Foreign language interpreter-specify language: _____

☐ Other: _____

Attorney Name: _____

Representing:

Firm: _____

☐ Plaintiff

☐ Defendant

Address: _____

☐ Cross-Defendant

☐ Cross-Complainant

Telephone: _____

☐ 3rd-Party Plaintiff

☐ 3rd-Party Defendant

☒ Proceeding Without an Attorney

Original and 1 copies of complaint enclosed/attached.

Dated: 07 / 14 / 2023

Signature: _____

SCA-C-100: Civil Case Information Statement (Other than Domestic Relations)

Revision Date: 4/2020

Defendant's Name _____ Street Address _____ City, State, Zip Code _____ <hr/>	Defendant's Phone: _____ Days to Answer: _____ Type of Service: _____ <hr/>
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Defendant's Name _____ Street Address _____ City, State, Zip Code _____ <hr/>	Defendant's Phone: _____ Days to Answer: _____ Type of Service: _____ <hr/>

IN THE CIRCUIT COURT OF OHIO COUNTY, WEST VIRGINIA

DIANA MEY,

Plaintiff,

v.

Civil Action No. _____

LIBERTY HOME GUARD, LLC,

Defendant.

COMPLAINT

PARTIES

1. The Plaintiff, Diana Mey, is a resident and citizen of Ohio County, West Virginia.
2. Defendant, Liberty Home Guard LLC, is a Delaware limited liability company who conducts business in the State of West Virginia.

JURISDICTION AND VENUE

3. Venue is proper in this Court pursuant to W.Va. Code § 56-1-1 because the acts complained of herein transpired in Ohio County, West Virginia where Defendant transacted business.

4. Defendant's conduct subjects them to personal jurisdiction under the West Virginia long-arm Defendants' conduct subjects them to personal jurisdiction under the West Virginia long-arm statute, W.Va. Code § 56-3-33, because they or those acting on their behalf initiated separate telephone calls and robotext messages to Plaintiff's personal wireless number, beginning with its dedicated West Virginia (304) area code, and thereby intentionally caused her phone to ring in Ohio County, West Virginia for purposes of transacting business in this state; because they caused tortious injury in this state; and because they otherwise engaged in persistent courses of conduct which constitute minimum contacts with this state for purposes of personal jurisdiction.

5. Jurisdiction is proper in this Court pursuant to W.Va. Code § 51-2-2, as the amount in controversy exceeds \$2,500.00.

THE TELEPHONE CONSUMER PROTECTION ACT ("TCPA")

6. In 1991, Congress enacted the TCPA to regulate the explosive growth of the automated calling industry. In so doing, Congress recognized that "[u]nrestricted telemarketing....can be an intrusive invasion of privacy[.]" Telephone Consumer Protection Act of 1991, Pub. L. No. 102-243, § 2(5) (1991) (codified at 47 U.S.C. § 227).

The TCPA Prohibits all Automated Calls to Protected Numbers

7. The TCPA makes it unlawful "to make any call (other than a call made for emergency purposes or made with the prior express consent of the called party) using an automatic telephone dialing system or an artificial or prerecorded voice...to any telephone number assigned to a...paging service, cellular telephone service, specialized mobile radio service, or other radio common carrier service, or any service for which the called party is charged for the call." See 47 U.S.C. § 227(b)(1)(A)(iii).

8. Congress singled out these services for special protection either because Congress realized their special importance in terms of consumer privacy and therefore protected them (as in the case of cellular phones), or because the numbers are assigned to services, like Ms. Mey's VoIP service, for which the called party is charged, thus shifting the cost of automated or prerecorded messages onto consumers. See *Barr v Am. Ass'n of Pol. Consultants, Inc.* 140 S. Ct. 2335, 2363, (2020) (Gorsuch, J. & Thomas, J. concurring in part and dissenting in part).

9. According to findings by the Federal Communication Commission ("FCC"), the agency Congress vested with authority to issue regulations implementing the TCPA, such

messages are prohibited because, as Congress found, automated or prerecorded messages are a greater nuisance and invasion of privacy than live ones, are costly, and are inconvenient.

10. The TCPA provides a private cause of action to persons who receive calls in violation of 47 U.S.C. § 227(b)(1)(A). *See* 47 U.S.C. § 227 (b)(3).

11. This cause of action applies to users of any of the four protected services (pager, cellular, specialized mobile radio [i.e. radiotelephone locator beacons or dispatch systems], or another radio common carrier service [i.e. ship-to-shore or air-to-ground]), or any service, including residential, VoIP, and landline services, for which the called party is charged. *See Perrong v Victory Phones LLC*, No. CV 20-5317, 2021 WL 3007258, at *6 (E.D. Pa. July 15, 2021).

12. “Non-emergency prerecorded voice or autodialed calls to [the destinations enumerated in 47 U.S.C. § 227(b)(1)(A)] are permissible only with the prior express consent of the called party.”

FACTS

13. Defendant Liberty Home Guard (“Liberty”) is a home warranty company that sells warranty plans for home appliances and systems. To promote its services, Defendant engages in unsolicited marketing to consumers throughout the United States, including West Virginia.

14. To reach as many customers as possible over the telephone, Defendant relies on the use of an ATDS to place “robocalls” and “robotext” messages.

15. Plaintiff’s telephone number (the “Number”), 304-242-XXXX, has been on the National Do Not Call Registry continuously since 2003.

16. Plaintiff has never provided Defendant nor their agents express written consent to call or text her, nor does she have an established business relationship with Defendant.

17. Beginning February 10, 2022 and continuing through at least February 23, 2022 Defendant and/or their agents initiated at least nine unsolicited telemarketing calls to Plaintiff's wireless Number with the express intent of generating business for Liberty.

18. The Number is assigned to a Voice over Internet Protocol (VoIP) telephone service which allows for voice calls to be placed over a broadband Internet connection.

19. That Number, which is assigned to a VoIP telephone service, is charged for each call or text it receives.

20. The VoIP telephone service provider for the Number is VOIP.MS.

21. The service charges a ring charge of \$0.008 for the provision of Caller ID Name lookup information for each call and/or text placed to the Number, even if the call is not answered.

22. The service also charges a per-minute charge of \$0.009 per minute for voice charge for each minute of talk time, including voicemail time, for each call placed to the Number.

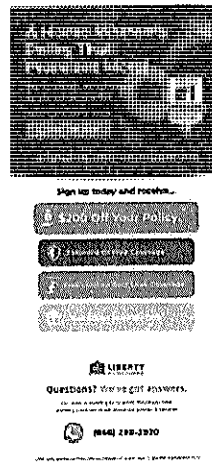
23. The Number is therefore "assigned to a...service for which the called party is charged for the call" and any calls placed to that Number are subject to the restrictions enumerated in 47 U.S.C. § 227(b)(1)(A)(iii).

24. Thereafter, the Plaintiff contacted the Defendant via their Customer Service email address service@libertyhomeguard.com as listed on Defendant's website LibertyHomeGuard.com. Plaintiff notified Defendant that the Number is listed on the National Do Not Call Registry, that she believed the calls were illegal and requested Defendant send her any evidence substantiating any claim that the calls she received were not illegal.

25. The Plaintiff received no response to this email. In fact, thereafter, beginning on March 10, 2022 and continuing until at least April 7, 2022, Plaintiff received eight marketing text

messages from the Defendant to her Number, including this text message from Defendant on April 5, 2022:

Geoff, get home warranty coverage starting at just \$1/day! Sign up TODAY to receive: \$200 OFF+ 2 FREE Bonus Months of Coverage+ Free Roof Leak Coverage Get Home Warranty coverage from America's #1 rated home warranty provider by U.S. News & World Report! Give us a call! (866) 288-3920 Learn more: <https://www.libertyhomeguard.com/thebesthomewarranties/> STOP to end.



26. Plaintiff never provided her consent or requested these calls or text messages.

27. The calls and text messages were not necessitated by any emergency.

28. Plaintiff was harmed by these calls and text messages. She was temporarily deprived of legitimate use of her telephone and her privacy was improperly invaded. The Plaintiff was charged for the calls and texts. Moreover, they injured Plaintiff because they were frustrating, obvious, annoying, were a nuisance and disturbed the solitude of Plaintiff.

29. Plaintiff has never given Defendants or any of their agents express written consent to call her, nor does she have an established business relationship with any of them.

30. Upon information and belief, the acts complained of herein were either the direct acts of Defendant or the acts of agents authorized to act on their behalf.

31. As such, Defendant is directly liable as to all Counts ascribed herein.

32. In the alternative, the acts complained of herein were carried out by agents operating for Defendant's benefit, or with actual, implied or apparent authority of Defendant, such that Defendant is vicariously liable as to all Counts ascribed herein.

33. In the alternative, Defendant ratified or accepted the benefits of the acts of their agents as described herein, and are therefore jointly and severally liable as to all Counts ascribed herein.

**COUNT I: VIOLATIONS OF THE TELEPHONE CONSUMER
PROTECTION ACT ("TCPA")**

34. The preceding paragraphs are incorporated by reference herein as if set forth in their entirety.

35. The foregoing acts and omissions of Defendant and/or its affiliates, agents, and/or other persons or entities acting on Defendant's behalf constitute numerous and multiple violations of the TCPA, 47 U.S.C. § 227, by sending calls and texts to the telephone number of Plaintiff using an automatic telephone dialing system ("ATDS"). *See* 47 U.S.C. § 227(b)(1)(A).

36. As a result of Defendant's and/or their affiliates, agents, and/or other persons or entities acting on Defendant's behalf's violation of the TCPA, 47 U.S.C. § 227, Plaintiff is entitled to an award of \$500 in damages for each and every call and text message initiated to her telephone number for which she is charged for the call or text using an ATDS in violation of the statute, pursuant to 47 U.S.C. § 227(b)(3)(B).

37. Defendant violated the TCPA, either directly or through the actions of others, by initiating more than one telephone call to Plaintiff in a twelve-month period while her number was on the National Do Not Call registry. *See* 47 U.S.C. § 227(c).

38. Defendant violated the TCPA, either directly or through the actions of others, by failing to clearly identify themselves during their calls with Plaintiff. *See* 47 C.F.R. § 64.1200 (d) (4).

39. Each of Defendant's actions, or those of agents operating on their behalf, were done willfully or knowingly.

40. Plaintiff is also entitled to and does seek injunctive relief prohibiting Defendant and/or its affiliates, agents, and/o other persons or entities acting on Defendant's behalf from violating the TCPA, 47 U.S.C. § 227, by making calls or sending messages, except for emergency purposes, to any number listed on the National Do Not Call Registry.

41. The Defendant's violations were willful and/or knowing.

WHEREFORE, Plaintiff demands from Defendant statutory penalties and damages as provided by law in the amount of \$1,500 per violation, prejudgment and post judgment interest, costs, attorney's fees, and whatever further relief the Court deems appropriate.

PLAINTIFF DEMANDS A TRIAL BY JURY ON ALL ISSUES SO TRIABLE.

COUNT II: VIOLATIONS OF THE WEST VIRGINIA CONSUMER CREDIT AND PROTECTION ACT ("WVCCPA") – ABUSIVE ACTS OR PRACTICES

42. The preceding paragraphs are incorporated by reference herein as if set forth in their entirety.

43. Defendant and/or their agents are telemarketers as defined by W.Va. Code § 46A-6F-113.

44. Plaintiff, Diana Mey, is a consumer or purchaser as defined by W.Va. Code § 46A-6F-103.

45. Defendant and/or their telemarketing agents sought to sell consumer goods or services to Plaintiff as defined by W.Va. Code § 46A-6F-104, § 46A-1-102 (47).

46. Defendant and/or their agents called and texted Plaintiff with the purpose of making telemarketing solicitations as defined by W.Va. Code § 46A-6F-112.

47. Defendant and/or their agents committed abusive acts or practices as defined by W.Va. Code § 46A-6F-601(a)(2) because they engaged Plaintiff repeatedly or continuously with behavior a reasonable person would deem to be annoying, abusive, or harassing.

48. Defendant and/or their agents committed abusive acts or practices as defined by W.Va. Code § 46A-6F-601(a)(3) because they initiated outbound calls to Plaintiff when she previously indicated she did not want to receive such calls by registering her number on the national Do Not Call registry.

49. Defendant and/or their agents committed abusive acts or practices as defined by W.Va. Code § 46A-6F-601(a)(5) because they engaged in other conduct which would be considered abusive to any reasonable consumer.

50. Each of Defendant's actions, or those of agents operating on their behalf, were done willfully or knowingly.

51. Accordingly, Plaintiff is entitled to relief from Defendant as prescribed by the penalties set forth in W.Va. Code § 46A-6F-701, including actual damages and a penalty in an amount to be determined by the court of not less than one hundred dollars and not more than three thousand dollars per violation.

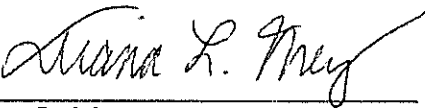
52. Plaintiff is further entitled to an adjustment for inflation on any award of damages as provided by W.Va. Code § 46A-6F-701(e).

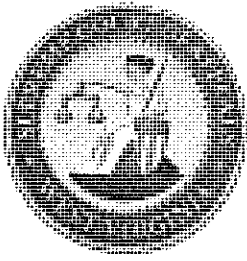
53. Plaintiff is entitled to, and reserves unto herself, all other remedies provided by law according to W.Va. Code § 46A-6F-702.

WHEREFORE, Plaintiff demands from Defendant statutory penalties and damages as provided by law in the amount of \$3,000 per violation, prejudgment and post judgment interest, costs, attorney's fees, and whatever further relief the Court deems appropriate.

PLAINTIFF DEMANDS A TRIAL BY JURY ON ALL ISSUES SO TRIABLE.

July 14
Dated: ~~June~~ __, 2023

/s/ 
Diana L. Mey
Plaintiff Pro-Se
14 Applewood Drive
Wheeling WV 26003
Phone: 304-242-4327
diana_mey@comcast.net



West Virginia E-Filing Notice

CC-35-2023-C-105

Judge: Jason A. Cuomo

To: Liberty Home Guard, LLC
1202 Avenue U #1061
Brooklyn, NY 11229

NOTICE OF FILING

IN THE CIRCUIT COURT OF OHIO COUNTY, WEST VIRGINIA

Diana Mey v. Liberty Home Guard, LLC

CC-35-2023-C-105

The following reissue/additional summons was FILED on 7/14/2023 2:20:51 PM

Notice Date: 7/14/2023 2:20:51 PM

Brenda L. Miller
CLERK OF THE CIRCUIT COURT
Ohio County
1500 Chapline Street
WHEELING, WV 26003

(304) 234-3611
Brenda.Miller@courtsww.gov